

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

RICHARD GUNTER,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

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Case No. 3:04cv263

JUDGE WALTER HERBERT RICE

UNITED STATES OF AMERICA,

Plaintiff,

vs.

RICHARD GUNTER,

Defendant.

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Case No. 3:00cr066

JUDGE WALTER HERBERT RICE

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DECISION AND ENTRY ADOPTING INITIAL (DOC. #40), SUPPLEMENTAL (DOC. #44), SECOND SUPPLEMENTAL (DOC. #46) AND THIRD SUPPLEMENTAL (DOC. #53) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE; PETITIONER'S OBJECTIONS TO SAID JUDICIAL FILINGS (DOCS. #42, #45, #52 AND #55) OVERRULED; PETITIONER'S MOTION PURSUANT TO 28 U.S.C. SECTION 2255 DENIED; CERTIFICATE OF APPEALABILITY AND ANTICIPATED REQUEST FOR LEAVE TO FILE *IN FORMA PAUPERIS* DENIED; JUDGMENT TO ENTER IN FAVOR OF RESPONDENT AND AGAINST PETITIONER; TERMINATION ENTRY

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Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge in his Initial (Doc. #40), Supplemental (Doc. #44), Second Supplemental (Doc. #46) and Third Supplemental (Doc. #53) Reports and Recommendations, as well as a thorough *de novo* review of this Court's file and the applicable law, said Reports and Recommendations are adopted in their entirety. The Petitioner's Objections to said judicial filings (Docs. #42, #45, #52 and #55) are overruled. Judgment will be ordered entered in favor of the Respondent and against Petitioner herein, denying Petitioner's Motion to Vacate, Set Aside or Correct a Sentence, filed pursuant to 28 U.S.C. Section 2255. The Defendant's Motion for Appointment of Counsel is denied.

Given that reasonable jurists would not disagree with the conclusion rendered herein, and that Petitioner has failed to make a substantial showing of the denial of a constitutional right, the Defendant is denied a Certificate of Appealability. Moreover, given that any appeal from the decision rendered herein would be objectively frivolous, this Court denies the Defendant leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

/s/ Walter Herbert Rice

July 18, 2007

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WALTER HERBERT RICE  
UNITED STATES DISTRICT JUDGE

Copies to:

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Vipal Patel, Esq.

Clerk, Sixth Circuit Court of Appeals